

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 11086 of 2006(T)

PETITIONER:

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1. THRESIAMMA JOSEPH,  
VADAKKEDAM,  
PADINJAREKKARA.P.O,  
VAIKOM, REP. BY P/A.HOLDER JOY.J.VADAKKEDAM,  
S/O.V.JOSEPH,VADAKKEDAM HOUSE, V.M.II/87,  
VAIKOM-686 141.
  2. A.J.VARGHESE, S/O.K.A.JOSEPH,  
KOLARAYIL HOUSE,  
THALAYOLAPARAMBU.P.O, REP. BY P/A.HOLDER  
JOY.J.VADAKKEDAM,SON OF V.JOSEPH,VADAKKEDAM HOUSE,  
V.M.II/87, VAIKOM-686141.
  3. SINDHU VARGHESE, W/O.A.J.VARGHESE,  
KOLARAYIL HOUSE,  
THALAYOLAPARAMBU.P.O,  
REP. BY POWER OF ATTORNEY HOLDER JOY.J.VADAKKEDAM,  
S/O.V.JOSEPH, VADAKKEDAM HOUSE, V.M.II/87,  
VAIKOM-686 141.

BY ADV. SRI.C.G.SUNIL  
SRI.SAJI MATHEW  
SMT.DENU JOSEPH

RESPONDENTS:

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1. STATE OF KERALA,  
REP. BY ITS SECRETARY,  
DEPARTMENT OF INDUSTRIES,  
SECRETARIAT, THRIUVANANTHAPURAM.
  2. THE GEOLOGIST,  
MINING & GEOLOGY,  
DISTRICT OFFICE, KOTTAYAM.
  3. THE REVENUE DIVISIONAL OFFICER,  
REVENUE DIVISIONAL OFFICER,  
REVENUE DIVISIONAL OFFICE,  
PALAI.

4. THE TAHSILDAR,  
VAIKKOM TALUK, VAIKOM.
5. THE VILLAGE OFFICER,  
NADUVILA VILLAGE,  
VAIKOM.
6. SRI.SUKUMARAN, MARANGOTTIL HOUSE,  
PADINJAREKKARA.P.O, VAIKOM-686 146,  
KOTTAYAM DISTRICT.
7. SRI.VARUGHESE, PARAPPURATH,  
PADINJAREKKARA.P.O, VAIKOM-686 146,  
KOTTAYAM DISTRICT.

BY ADV. SRI.PHILIP M.VARUGHESE  
SRI.P.M.BENZIR-ADV.COMMISSIONER  
GOVERNMENT PLEADER – ADV. SMT. SMITHA  
SRI.JOSE JOSEPH (MANNAR)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**APPENDIX**

**PETITIONERS' EXHIBITS**

EXT.P1 COPY OF THE POSSESSION CERTIFICATE OF 114 CENTS OF PROPERTY IN SURVEY NO. 118/5 IN THE NAME OF THE 1ST PETITIONER, ISSUED BY VILLAGE OFFICER, NADUVILA.

EXT.P2 COPY OF THE SITE PLAN PREPARED BY VILLAGE OFFICER NADUVILLA OF THE SAID PROPERTY WITH NO. 3319/2004 COUNTER SIGNED BY THE TAHSILDAR, VAIKOM DATED 15/12/2004.

EXT.P3 COPY OF QUARRYING PERMIT NO. 302/2005-06/106/DoY/HL/2005 FOR ORDINARY SAND DATED 15/07/2005 TO THE 1ST PETITIONER PERMITTING HIM TO EXTRACT 750 MT OF ORDINARY SAND FOR AN AREA OF 10.575 AND IN SURVEY NO.118/5 OF NADUVILA VILLAGE.

EXT.P4 COPY OF THE QUARRYING PERMIT NO./523/2005-06/2802/DOY/ML/2005 ATED 03/10/2005 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 COPY OF THE ORDER DATED 22/10/2005 WITH NO. 2802/DOY/ML/05 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 COPY OF THE APPLICATION SUBMITTED BY THE 6TH RESPONDENT TO THE CHIEF MINISTER OF KERALA.

EXT.P7 COPY OF THE SITE PLAN

**RESPONDENT'S EXHIBITS**

EXT.R7(1) COPY OF THE PICTURES TAKEN FROM THE SCHEDULED PROPERTY.

EXT.R7(2) COPY OF THE REPORT DATED 24/06/2006.

EXT.R7(3) COPY OF THE REPORT IN MALAYALA MANORAMA DATED 23/06/2006.

EXT.R7(4) COPY OF THE REPORT IN MALAYALA MANORAMA DATED 24/06/2006.

EXT.R7(5) COPY OF THE REPORT IN MALAYALA MANORAMA DATED 25/06/2006.

EXT.R7(6) COPY OF THE REPORT IN MALAYALA MANORAMA DAILY DATED 27/06/2006.

// TRUE COPY //

PA TO JUDGE

jg

**C.N.RAMACHANDRAN NAIR, J.**

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**WP(C) No. 11086 of 2006 T**  
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**Dated, this the 6<sup>th</sup> day of March, 2007**

**J U D G M E N T**

Petitioner is challenging Ext.P5 order, which is the stop memo, issued by the Geologist prohibiting the mining carried on by the petitioner in his property, for which licence was already given to him. Complaint was filed by one neighbour stating that mining is within the prohibited distance from his house. The Commissioner, appointed by this Court, filed report stating that complaint is only about a shed, which itself is more than 41 metres away from the mining area. In view of the findings of the Commissioner, the complaint is not tenable as he has obviously no grievance. The learned counsel for the 7<sup>th</sup> respondent submitted that his client's land is adjoining the property of the petitioner which is cultivated with Coco. However, there is no restriction against mining near agricultural land. In any case, since mining of licence is expired and since objections raised are not tenable, this writ petition is disposed of with a direction to the Geologist to grant fresh mining licence after collecting royalty

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in accordance with Rules and based on current norms, which are followed for grant of licence.

This writ petition is disposed of as above

**(C.N.RAMACHANDRAN NAIR, JUDGE)**

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